

**IN THE BOARD OF SUPERVISORS**  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

\_\_\_\_\_ day \_\_\_\_\_, 20\_\_

**PRESENT:** Supervisors

**ABSENT:**

RESOLUTION NO. \_\_\_\_\_

RESOLUTION UPHOLDING THE DECISION OF THE  
PLANNING COMMISSION AND CONDITIONALLY APPROVING  
THE APPLICATION OF THE COUNTY OF SAN LUIS OBISPO DEPARTMENT OF  
GENERAL SERVICES, PARKS DIVISION FOR DEVELOPMENT  
PLAN/VARIANCE/COASTAL DEVELOPMENT PERMIT DRC2011-00069

The following resolution is now offered and read:

WHEREAS, on May 23 2013, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and continued the item until July 25, 2013 where the commission conditionally approved the application of the County of San Luis Obispo Department of General Services, Parks Division for Development Plan/Variance/Coastal Development Permit DRC2011-00069; and

WHEREAS, Sean Shealy for Friends of Pirates Cove and Brian LoConte have appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors)

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pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code;  
and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on October 8 2013, and determination and decision was made on October 8, 2013; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed and that the application should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in revised Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the Mitigated Negative Declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

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4. That the appeals filed by Sean Shealy and Brian LoConte are hereby denied and the decision of the Planning Commission is affirmed and that the application of County Department of General Services, Parks Division, for Development Plan/Coastal Development Permit DRC2011-00069 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[SEAL]

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APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: [Signature]  
Chief Deputy County Counsel

Dated: September 25, 2013

STATE OF CALIFORNIA, )  
 ) ss.  
County of San Luis Obispo, )

I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of \_\_\_\_\_, 20\_\_.

County Clerk and Ex-Officio Clerk of the Board  
of Supervisors

(SEAL)

By \_\_\_\_\_ Deputy Clerk.

**EXHIBIT A**  
**FINDINGS FOR DEVELOPMENT PLAN/VARIANCE/COASTAL DEVELOPMENT PERMIT**  
**DRC2011-00069**

*Environmental Determination (Revised Project for 70 space Parking Area)*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on February 21, 2013 and is hereby adopted for this project. Mitigation measures are proposed to address aesthetics, air quality, biological resources, cultural resources, geology and soils, traffic, noise, and land use and are included as conditions of approval.
- B. The County as the Lead Agency finds that the revised project is consistent with the existing proposed Mitigated Negative Declaration and as a result the proposed Mitigated Negative Declaration does not need to be substantially revised and recirculated under the provisions of CEQA Guidelines section 15073.5 because:
1. The area near the proposed bathroom where the additional parking is to occur is located within an area previously proposed for disturbance for construction staging and grading for the bathroom and area around the bathroom;
  2. The additional parking does not generate new significant impacts beyond those impacts already reviewed in the Mitigated Negative Declaration;
  3. The additional parking and grading does not require additional mitigation measures beyond what was already proposed in the Mitigated Negative Declaration;
  4. There is no substantial evidence in light of the whole record that the project as revised will have a significant effect on the environment that has not already been considered and mitigated for in the Mitigated Negative Declaration

*Development Plan*

- C. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies. The County's Park and Recreation Element identifies the Cave Landing Trail as a proposed project. This project will not only fulfill the County's Park and Recreation Element, but serve as part of the statewide California Coastal Trail which will provide coastal access, further achieving the goals of the County's Parks and Recreation Element for coastal access.
- D. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- E. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project which includes improvements to existing trails and parking areas does not generate activity that presents a potential threat to the

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surrounding properties. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.

- F. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the trail, parking area and passive recreation facilities (picnic tables, restrooms and trash receptacles) will not conflict with the surrounding lands and uses.
- G. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Cave Landing Road, a local road constructed to a level able to allow the current informal passive recreation facilities to become formalized and remain under County maintenance and control.

### *Archeological Sensitive Area*

- H. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the project. The project has been sited and designed to minimize impacts to cultural resources, but full avoidance to cultural resources is not feasible. The project is conditioned to include a monitoring plan which will require a qualified professional approved by the county to monitoring any ground disturbing activities.

### *Coastal Access*

- I. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the purpose of the project is to provide for and formalize coastal access for the public on the subject properties.

### *Variance Findings*

- J. The Variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which it is situated.

This proposed project is requesting four variances from the strict interpretations of the Coastal Zone Land Use Ordinance. The variance requests are as follows:

1. Variance to allow development of the trail within the coastal bluff setback;
2. Variance to allow grading on slopes of 30% for portions of the newly re-aligned trail between Cave Landing and Pismo Beach because grading on steep slopes of 30% or more is not normally allowed (unless there is no possible way around the slopes);
3. Variance to allow development within the required 25 foot front setback area from Cave Landing Road;
4. Variance to allow parking within the front 25 foot setback area along Cave Landing Road.

This project with the requested variances does not grant special privileges inconsistent with the limitations upon other properties in the vicinity. Variance approvals for these items are common when there are no alternative designs for a proposed project, or where there are no alternative designs which comply with other portions of the Local Coastal Program such as protection of resources. Specifically, the location of the improvements are being limited to disturbed areas to the maximum amount feasible

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except for the re-alignment of the new trail in order to avoid landslides and cultural resources. These locations happen to be clustered very close to the road which are within the front setback areas (3 and 4 above). The trail improvements within the bluff setback are similar to other projects where coastal trails are on the edge of the bluff in order to maximize the public viewing experience being as close to the ocean as possible (1 above). Additionally, portions of the trail will be on slopes of 30%, and in this case there is no alternative location on the site to locate the trail off of these steep slopes. This is similar to other projects that are unable to be designed to avoid steep slopes due to site constraints and have received approval for a variance (2 above).

- K. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this Title would deprive the property of privileges enjoyed by other properties in the vicinity and in the same land use category.  
This project is unique in that the purpose is to provide coastal access for the public. This is unlike private development projects where there is a principal use of the site and the property owner has a right to use the property for this principal use, and without granting a variance the property owner would be deprived of their privileges enjoyed by surrounding properties within the same zoning. This proposed project includes properties held by the County which will contain trails and parking areas for coastal access. The proposed project site does contain special circumstances relative to its location which include sensitive resources areas and proximity to the coastal bluff. Similar to other projects which receive variances for slope or setback, this proposed project includes similar site constraints which do not allow for a revised project design without granting of a variance, or further impacting sensitive coastal resources (such as landslide areas and cultural resources).
- L. The Variance does not authorize a use that is not otherwise authorized in the land use category.  
The project includes passive recreation which is an allowed use within the Residential Rural Land Use Category.
- M. The Variance is consistent with the provisions of the Local Coastal Program (LCP).  
The project complies with the requirements of the Local Coastal Program as the purpose of the project is to enhance coastal access consistent with the goals and policies of the LCP.
- N. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.  
This project will include improvements to existing informal trails and parking areas which will increase the safety for the users of the property. Currently the site contains hazardous trails which are damaged due to landslides and these will be enhanced and re located in order to provide safe access. Hand rails and stairs are also being installed which will increase safety of the proposed site. The project is not injurious to neighboring properties as the use will remain unchanged, but will be formalized in order to enhance the safety of the site.

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### **EXHIBIT B REVISED CONDITIONS OF APPROVAL DEVELOPMENT PLAN/VARIANCE/COASTAL DEVELOPMENT PERMIT DRC2011-00069**

#### *Approved Development*

1. This approval authorizes a Development Plan/Coastal Development Permit/Variance to allow for the construction of the following:
  - a. Construction of a bike/pedestrian trail of approximately 1,800 linear feet long and approximately 12 feet wide. Approximately 800 feet of this proposed trail is located within the abandoned road segment of Cave Landing Road. This trail will be made of decomposed granite or similar permeable surface and will require removal of approximately 800 linear feet of existing abandoned road pavement. A 30 foot span bridge will cross a natural drainage way;
  - b. formalization of the Pirates' Cove parking lot by leveling, resurfacing with asphalt, landscaping, and providing a minimum of 70 parking spaces;
  - c. installation of drainage improvements of vegetated bio-swales and two level spreaders in the parking lot area;
  - d. Improvement of the existing pedestrian trail from the parking lot to Pirates Cove beach including: a four foot wide trail; additional water bars for drainage; stairs to the beach; and rails or fencing as necessary;
  - e. construction of accessory facilities including a waterless vault restroom, picnic tables, benches, garbage cans, and interpretive signs, and
  - f. regular maintenance of these facilities.
  - g. Variance to allow construction on slopes of 30%
  - h. Variance to allow parking and fencing within a front setback along Cave Landing Road
  - i. Variance to allow construction within the coastal bluff setback area.

#### ***Conditions required to be completed prior to commencement of construction***

#### *Site Development*

2. Construction plans submitted shall show all development consistent with the revised site plan, floor plans and elevations.
3. The project shall comply with the parking design standards of section 23.04.164 of the Coastal Zone Land Use Ordinance.

#### *Lighting Plan*

4. The applicant shall provide a Lighting Plan. The plan shall include the height, location and intensity of all exterior lighting. All light fixtures shall be shielded so that neither the lamp nor the reflective interior surface is visible from areas outside the project site. All light poles, fixtures and hoods shall be dark (non-reflective) colored. All exterior lighting sources shall be low-level and adjusted so that light is directed into the project site. Security lighting shall be shielded so as not to create glare when viewed outside the project boundaries.

#### *Sign Plan*

5. The applicant shall provide a signage plan which shows the location and language of all signage proposed for the property, including but not limited to signs identifying trail



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boundaries and signs listing prohibited activities such as camping and campfires. Signs shall explain the hazardous and potentially dangerous nature of the property due to steep cliffs and unstable terrain down to the beach. Signs shall also explain that visitors using the stairs or walking to or on the beach are “at their own risk” and should take extra precautions during hours of low visibility or severe conditions.

### *Fire Safety*

6. All construction plans shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the letter prepared by the CDF/County Fire Department for this proposed project and dated April 11, 2012.

### *Public Works*

7. The applicant shall obtain all necessary approvals from County Public Works, and all recommendations from Public Works shall be incorporated in the project plans. A drainage plan and sedimentation and erosion control plan shall also be prepared for review and approval by County Public Works.

### *Vault Restroom*

8. The applicant shall submit evidence that the vault restrooms are reviewed and approved by County Environmental Health Department.

### *Air Quality*

9. AQ-1 Fugitive PM 10 **Mitigation measures (All required PM190 measures shall be shown on applicable grading or construction plans.** In addition, the County of San Luis General Service Agency/Parks shall designate personnel to insure compliance and monitor the effectiveness of the required dust control measures (as conditions dictate, monitor duties may be necessary in weekend and holidays to insure compliance): the name and telephone number of the designated monitors shall be provided to the APCD prior to construction/grading permit issuance:
  - Reduce the amount of disturbed area where possible;
  - Use water trucks or sprinklers systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (nonpotable) water should be used whenever possible; Water all active construction areas at least twice daily. Frequency should be based on the type of operation, soil and wind exposure;
  - All dirt stock-pile areas should be sprayed daily as needed;
  - Permanent dust control measures identified in the approved project revegetation plan should be implemented as soon as possible following completion of disturbing activities;;
  - Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with fast germinating native grass seed and watered until vegetation is established;
  - All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by APCD;

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- All roadways driveways, sidewalks etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
  - Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
  - All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet freeboard (minimum vertical distance between top of load and top of trailer) in accordance with the CVC Section.
  - Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site; and
  - Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
10. AQ-2 Prior to construction the General Service Agency/Parks shall provide evidence they have contracted APCD on any proposed portable equipment requiring APCD or CARB registration such as: 50-hp portable generators, IC engines, unconfined abrasive blasting operations, concrete batch plants, rock and pavement crushing, tub grinder, trammel screens, etc. should any of these types of equipment be used during construction activities, Californian Statewide portable equipment registration (issued by the Californian Air Resources Board) or a APCD permit may be required.

### *Biological Resources*

11. BIO-1 The Black-flowered figwort shall be flagged along the beach trail so construction activities avoid this area. If avoidance is not feasible; a mitigation plan would be developed and implemented by a qualified biologist/restoration specialist, and may include salvaging/transplanting plants and/or cuttings from impact areas and relocating to suitable habitat and/or collecting seeds for distribution in a designated mitigation/restoration area.
12. BIO-2 A qualified biologist shall conduct a pre-construction survey prior to the mobilization, operation, and demobilization of project equipment within work areas to determine presence/absence sensitive wildlife species. In the event that any special-status species are identified within the immediate project work area, work will not be initiated until the appropriate agencies have been contacted and appropriate measures for protection have been instituted. Project activities may commence only after pre-construction surveys have confirmed the absence of all special-status species
13. BIO-3 All applicable agency permits with jurisdiction over the project area (e.g. CCC, CDFW, Corps, Regional Water Quality Control Board [RWQCB]) should be obtained (as necessary) for proposed project improvements. All additional mitigation measures required by these agencies would be implemented as necessary throughout the project.
14. BIO-4 If feasible, construction activities shall take place between mid-August and mid-March to be outside of the nesting bird season. If construction activities occur within the nesting bird season, a qualified biologist shall perform pre-activity nesting bird surveys to determine if breeding/nesting birds are present within the project site. If an active bird nest, greater than 50% completed, is identified, then CDFW and/or USWFS shall be consulted to determine appropriate buffer during construction activities. Nests less than

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50% completed or a non-active nest (i.e., last year's nest or an abandoned nest) shall be removed by a qualified biologist in accordance to the MBTA.

### *Cultural Resources*

15. CR-1 The applicant shall submit to the Environmental Coordinator for review and approval, a detailed researched design for a Phase III data recovery archaeological investigation. The Phase III program shall be prepared by a subsurface qualified archaeologist, approved by the Environmental Coordinator. The consulting archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigations. The Phase III program shall include at least the following:
  - a. standard archaeological data recovery practices;
  - b. recommendation of sample size adequate to mitigate for impacts to the archaeological site, including bases and justification of the recommended sample size;
  - c. identification of location of sample sites/test units;
  - d. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how materials will be collected);
  - e. disposition of collected materials;
  - f. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results; and
  - g. consultation with appropriate Chumash tribal representatives.

Once approved these measures shall be shown on all applicable plans and implemented during construction.

16. CR-2 A monitoring plan, prepared by a subsurface-qualified archaeologist, approved by the Environmental Coordinator, to be reviewed and approved by the Environmental Coordinator. The monitoring plan shall include at a minimum:
  - a. List of personnel involved on the monitoring activities;
  - b. Description of how monitoring shall occur;
  - c. Description of frequency of monitoring (e.g. full-time, part time. Spot checking);
  - d. Description of what resources are expected to be encountered;
  - e. Description of circumstances that would result in the halting of work at the project site (e.g. what is considered significant archaeological resources?);
  - f. Description of procedures for halting work on the site and notification procedures;
  - g. Description of monitoring reporting procedures; and
  - h. Consultation with appropriate Chumash tribal representatives.
17. CR-3 A letter from the consulting archaeologist shall be submitted to the Environmental Coordinator indicating that all necessary field work, as identified in the Phase III, program, has been completed.

### *Geology and Soils*

18. GS-1 General Service Agency/Parks shall prepare construction plans that show the Cave Landing Road trail head relocated away from the potential sinkhole area and tension crackling/scarps as shown on page 27 of this report.
19. GS-2 General Service Agency/Parks shall prepare construction/drainage plan(s) that

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show the level of water drained into the Pirates Cove Landslide Complex does not increase, drainage does not cause erosion or flow into the landslide areas and the grading does not affect the overall stability of the site.

20. GS-3 General Service Agency/Parks shall prepare construction plans that increase the span of the bridge to a length that will reduce foundation depths of the bridge footing to no more than two or three feet and reduce the potential to remove lateral support from an active landslide that is present in the area of the west abutment.
21. GS-4 General Service Agency/Parks shall prepare construction plans that include:
  - a. proper compaction and grading for fills placed on sloping ground;
  - b. fill slopes no steeper than 2h:1v; and
  - c. cut slopes no steeper than 1.5h:1v.
22. GS-5 General Service Agency/Parks shall prepare construction plans for the bridge that include:
  - a. fill placed on slopes steeper than 20 percent (at the bridge approaches) should be initiated from a toe key excavated into firm material, and be keyed and benched into the hillside in accordance with good construction practices;
  - b. The embankment should be founded on firm subgrade soil below any loose or fissured topsoil;
  - c. The toe embankment should be initiated from a toe key excavated to at least two feet below existing site grades and sloped at least two percent into the fill side. The toe key should be at least eight feet wide. The fill above the toe key should then be keyed and benched into the hillside such that at least the upper two feet of soil is removed by the grading.
23. GS-6 General Service Agency/Parks shall prepare construction/drainage plans that:
  - a. improve cross drainage on trails and reduce concentrated flows of runoff;
  - b. do not increase erosion or flow of surface drainage water into landslide area; and
  - c. spreader trenches sized such that storm water runoff trenches allow no additional runoff than the natural surface runoff.
24. GS-7 General Service Agency/Parks shall prepare a complete erosion and sedimentation control plan in accordance with Title 23.05.
25. GS-8 The applicant shall provide verification that the plans and specification for the design of the trail, grading, bridge structures, utility trenches and appurtenant improvements have been prepared in accordance with the recommendations of the geotechnical report(s) prior to beginning construction. Structures shall be designed to at least the minimum requirements of the 2010 California Building Code and the recommendations of the geotechnical report(s).

### *Traffic and Circulation*

26. TR-1 Prior to construction, General Service Agency/Parks shall secure an encroachment permit to allow the installation of the restroom, tables, benches, bike racks and the removal and restoration to native of a portion of the existing trails that lies within the County maintained road right-of-way. General services shall meet with Public Works and the Chumash representatives to determine the minimum disturbance

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necessary for the proposed parking area adjacent to the restroom.

### *Water*

27. W-1 Prepare and implement an erosion, sedimentation and pollution prevention plan and SWPPP.
28. W-2 Submit a drainage plan showing the use of a filter device to prevent oils and fuel washing from the proposed parking area into the ocean at the parking lot inflow location

### *Access*

29. At the time of construction document design for the beach access stairs, San Luis County Parks in consultation with Coastal Conservancy, shall take into consideration the location, dynamic environment and historic storm patterns for this site to allow for a design that will allow maximum public access throughout the year as to avoid any closures to the beach.

### ***Conditions required to be completed during project construction***

### *Biological Resources*

30. BIO-5 An Environmental Sensitivity Training presentation shall be prepared and presented to all construction personnel at the beginning of the project. The program shall discuss sensitive species with potential to occur in the construction zone, with emphasis on special-status wildlife, plants, and sensitive marine resources. The program shall explain the importance of minimizing disturbance and adhering to all permit conditions and provide an overview of petroleum spill prevention and response actions.
31. BIO-6 The following measures shall be implemented to further mitigate impacts to sensitive wildlife that may occur within project area:
  - All vegetation removal and initial ground disturbing excavation activities shall be monitored by a qualified biologist, authorized to relocate native wildlife to adjacent suitable habitat;
  - A qualified biologist shall inspect the immediate work areas for any signs of nesting woodrats. In the event a woodrat nest is found within the immediate work area and project activities cannot avoid the nest, all activities within the vicinity of the nest shall stop and the CDFW shall be consulted. At no time shall a woodrat nest be removed until CDFW consultation;
  - All construction activities will be completed during daylight hours only;
  - All trash receptacles will be located away from the bluff face and will be covered; and all food-related trash shall be removed from the Project Site at the end of each working day;
  - Project-related equipment should be prohibited outside of designated work areas and delineated access routes;
  - No firearms should be allowed in the project area;
  - In the event a special status animal is observed within the Project Site, appropriate agencies will be notified immediately to determine further mitigation;
  - No project activities shall be conducted during rain events; and,
  - No rodenticides or herbicides should be applied within the project area.

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32. BIO-7 The use of heavy equipment and vehicles shall be limited to the proposed project limits, existing roadways, and defined staging areas/access points. Impervious material will be placed under all containers with petroleum products, including machinery engines and fuel tanks, in the storage or refueling area. The boundaries of each work area shall be clearly defined and marked with visible flagging and/or fencing.
33. BIO-8 During construction, washing of concrete, paint, or equipment and refueling and maintenance of equipment shall occur only in designated areas. Straw bales, sandbags, and sorbent pads shall be available to prevent water and/or spilled fuel from entering adjacent waters. In addition, secondary containment should be installed around all locations where petroleum products are stored. Construction equipment shall be inspected by the operator on a daily basis to ensure that equipment is in good working order and no fuel or lubricant leaks are present.
34. BIO-9 Heavy equipment that creates noise levels above 85 dB shall not be used for project activities along the shoreline during installation of the storm drain culverts and/or during future improvements of the lower portion of Pirate's Cove trail down to the beach. Specifically, noise level measurements shall be taken during the first day that a piece of equipment that has no published noise level data is to be used at the site. Measurements shall be taken to determine the distance to the 85 dB noise level and adjustments to machinery operation (i.e., ramp up) shall be made if wildlife (i.e., harbor seal, sea otter, and sea lion) are observed to be negatively affected by the equipment noise.
35. BIO-10 Erosion control measures shall be implemented to prevent runoff into adjacent waters. Silt fencing, in conjunction with other methods, shall be used to prevent erosion and avoid and/or minimize excavated soil and sediments from entering adjacent waterways. Further, appropriate dust control measures, such as, daily watering of work areas, shall be implemented to minimize dust impacts to surrounding habitat areas.

### *Cultural Resources*

36. (a) CR-4 All ground disturbing construction activities, the applicant shall retain a qualified archaeologist (approved by the environmental coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring all work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.
- (b) During the construction of the improvements to the pedestrian trail from the parking lot to Pirates Cove, the County shall work closely with the Native American monitor to avoid or reduce impacts to cultural resources if at all feasible. In areas of concern as identified by the monitor, trail improvements may be limited to those necessary to make the trail safe or stabilize it due to drainage of other surface concerns. The County will consider installation of "cover" (e.g. mulch, jute netting, inhospitable vegetation) for areas of visible cultural resources directly adjacent to the trail if acceptable to the Native American monitor.

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### *Noise*

- 37. N-1 Construction activities will be limited to the hours of 7:00 a.m. to 7:00 p.m.
- 38. N-2 Heavy equipment that creates noise levels above 85 dB shall not be used for project activities along the shoreline during installation of the storm drain culverts and/or during future improvements of the lower portion of Pirate's Cove trail down to the beach. Specifically, noise level measurements shall be taken during the first day that a piece of equipment that has no published noise level data is to be used at the site. Measurements shall be taken to determine the distance to the 85 dB noise level and adjustments to machinery operation (i.e., ramp up) shall be made if wildlife (i.e., harbor seal, sea otter, and sea lion) are observed to be negatively affected by the equipment noise.

### ***Conditions required to be completed prior to final inspection***

#### *Aesthetics*

- 39. AES-1 The balance of any cuts into the hillside shall be replanted as soon as possible with erosion control planting.
- 40. AES-2 Stairs to the beach shall be painted or made of material that is a muted and natural color that match the surrounding natural environment.
- 41. AES-3 The vault restroom shall be painted or made of material that is a muted and natural color that match the surrounding natural environment.
- 42. Landscaping in accordance with the approved landscaping plan shall be installed before final inspection. All landscaping shall be maintained in a viable condition in perpetuity.
- 43. The applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

#### *Cultural Resources*

- 44. CR-5 Upon completion of all monitoring/data recovery activities, and prior to final inspection (whichever occurs first) the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/data recovery activities and confirming that all mitigation measures have been met. If the analysis included in the Phase III program is not complete by the time of final inspection the applicant shall provide to the environmental coordinator, proof of obligation to complete the required analysis.
- 45. CR-6 Split rail fencing, or similar type fencing, a minimum of three feet high shall be installed along the bike/pedestrian trail. This fencing is to discourage people from meandering off the official trail.
- 46. CR-7 Interpretive panel(s) shall be installed to educate the public about the Chumash experience and cultural history of the area. The(se) interpretive panel(s) shall be approved by County Parks, and the content shall be developed in cooperation with appropriate Chumash tribal representatives

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### *Geology and Soils*

47. GS-9 The applicant shall provide verification that the earthwork, drainage, structures, and trail improvements were inspected, testing, and observed under the auspices of a California registered professional engineer and the geotechnical engineer for conformance with the plans, specifications, and any special inspection requirements of the 2010 California Building Code so as to have reasonable certainty that the work was constructed according to the approved plans and specifications.
48. GS-10 If landslide potential is perceived (heavy rains, earthquakes) the bike/pedestrian trail will be closed to ensure public safety.
49. GS-11 A sign will be posted at either end of the trail with notice to contact County Parks if dangerous or unusual conditions are observed.

### *Traffic and Circulation*

50. TR-2 After completion of the bike trail improvements and realignment, General Service Agency/Parks shall request vacation of the County maintained road right-of-way being superseded by the trail.

### ***On-going conditions of approval (valid for the life of the project)***

### *Air Quality*

51. AQ-3 As of February, 2000, the APCD prohibits developmental burning of vegetative material with San Luis Obispo county. However, under certain circumstances where no technically feasible alternatives are available, limited developmental burning under restrictions may be allowed, any such exemption must complete the following prior to any burning: APCD approval; payment of fee to APCD based on the size of the project; and issuance of a burn permit by APCD and the local fire department authority. As part of APCD approval, the applicant shall furnish them with the study of technical feasibility (which includes cost and other constraints) at the time of application. For any questions regarding these requirements, Karen Brooks of APCD's Enforcement Division may be contacted.

### *Geology and Soils*

52. GS-12 The trail should be inspected by the County following periods when landslide potential may increase (such as following periods of heavy rains, earthquakes, or high surf) or when there are reports of cracking, settlement, or erosion of within or adjacent to the bike/pedestrian and the trail will be closed to ensure public safety if conditions are deemed to make travel on the path unsafe.
53. GS-13 This project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the county's Storm Water Pollution Control and Discharge Ordinance, Title 8, Section 8.68 et. seq.

### *Land Use*

54. LU-1 The recreational area shall be closed down during significant rain storms or ground movement to ensure public safety.



## Attachment 1

55. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
56. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.